

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FRANCISCO ROSAS,

Plaintiff

VS.

**CLINT BERNY and
KCB CONSTRUCTION, LLC dba
VENETIAN MARBLE & GRANITE,**

Defendants

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Civil Action No. SA-20-CA-1140

NOTICE OF REMOVAL

Defendants, Clint Berny and KCB Construction, LLC dba Venetian Marble & Granite, file this notice of removal to the United States District Court for the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§1331 and 1441 based on the fact that Plaintiff has claimed that: “I have been discriminated against and subjected to a hostile work environment because of my sex (orientation) in violation of Title VII of the Civil Rights Act of 1964, as amended.” These actions, if true, allegedly would violate federal laws identified by the Plaintiff in his Petition: Small Claims Case.

PRELIMINARY STATEMENT

This application seeks the removal of No. 21S2000541, styled Francisco Rosas vs. Clint Berny and KCB Construction, LLC dba Venetian Marble & Granite, pending in the Justice Court, Precinct 2, Place 1, Bexar County, Texas. A copy of the Plaintiff’s Petition: Small Claims Case, together with a copy of all process, pleadings and orders served upon Defendants is attached hereto as Exhibit 1. Removal is sought to the San Antonio Division of the United States District Court for the Western District of Texas.

GROUND FOR REMOVAL

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331.

2. The first date on which Defendants received a copy of the Petition: Small Claims Case was September 1, 2020, when the Petition was received by certified mail.

3. Removal to the United States District Court for the Western District of Texas, San Antonio Division, is proper pursuant to 28 U.S.C. §124(b)(6) because Bexar County is located in the Western District, San Antonio Division.

4. Plaintiff's Petition: Small Claims Case claims: "I have been discriminated against and subjected to a hostile work environment because of my sex (orientation) in violation of Title VII of the Civil Rights Act of 1964, as amended."

5. Thus, the action filed by Plaintiff, Francisco Rosas, is one containing federal claims and jurisdiction is, therefore, proper in this federal court.

REMOVAL PROCEDURE

6. The Notice is filed timely under 28 U.S.C. §1446(b).

7. Pursuant to 28 U.S.C. §1446(b), a copy of the Petition: Small Claims Case together with a copy of all process, pleadings and orders served upon Defendants and contained in the file at the Justice Court are attached hereto as Exhibit 1.

8. Defendants will serve written notice of the removal of this action upon Plaintiff and will file such notice with the Justice Court of Bexar County, Texas as required by 28 U.S.C. §1446(b). A copy of the Notice of Filing of Removal is attached hereto as Exhibit 2.

Wherefore, Defendants pray that this action be removed to this Court, that this Court accept jurisdiction of this action, and that henceforth, this action be placed on the docket of this Court for further proceedings as though jurisdiction had been instituted originally in this Court.

Respectfully submitted,

/s/ Malinda A. Gaul
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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served in accordance with the Federal Rules of Civil Procedure to the following on this the 24th day of September, 2020.

Plaintiff
Francisco Rosas
5407 Charter Oak Drive
San Antonio, Texas 78229

/s/ Malinda A. Gaul
Malinda A. Gaul